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January 21, 2010

By ECF

Hon. Joanna Seybert
United States District Court
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722

Re: *Miller v. Equifax Credit Information Services et al*, 09 CV 2499 (JS)(WDW)

Dear Judge Seybert:

I ask that the action be dismissed as to defendant First Premier Bank *sua sponte* under Rule 4(m). The action was commenced on June 11, 2009. At the date of this letter, more than 220 days have expired since the complaint was filed. No order extending the time to serve the summons and complaint was made.

First Premier Bank received the summons and complaint with a request for waiver under Rule 4(d)(1) dated December 23, 2009, which First Premier Bank has not signed or returned. The summons and complaint were not served on First Premier Bank.

First Premier Bank has filed a notice of appearance by ECF, but it has not answered or moved against the complaint because even if plaintiff's time to serve had not expired, First Premier Bank's time to respond to the complaint would not have begun to run under Rule 12(a)(1)(A)(i)-(ii).

Respectfully,

/S/

Dennis M. Rothman

cc (by ECF):

Ms. Mary Miller
Plaintiff pro se

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